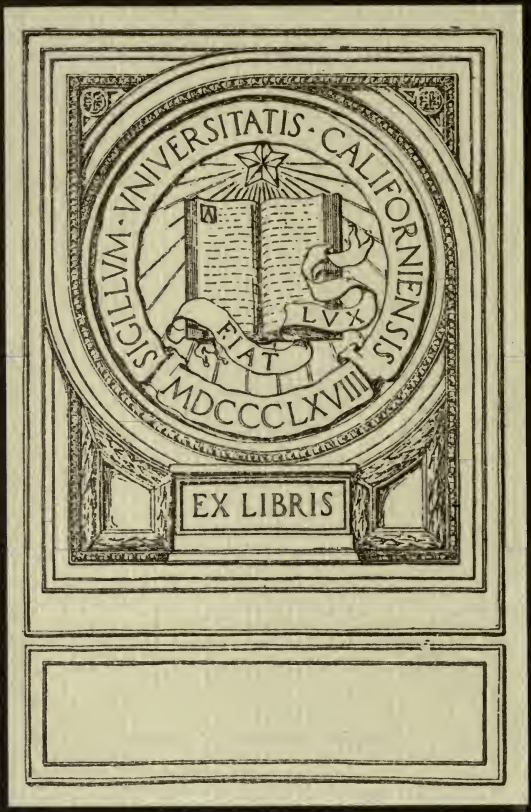
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THE YEAR'S PROGRESS AND THE UNIFORM LAW

BY

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The Year's Progress and the Uniform Law

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THE Uniform Small Loan Law had its inception in the city of New York. In November, 1916, only six years ago, representatives of your organization, in conference with representatives of the Russell Sage Foundation, agreed upon the language of the first draft, and since that date, from time to time, we have, with representatives of other organizations, made slight changes in the draft, and today the Uniform Small Loan Law, either in its exact form or in statutes containing similar provisions, is in force in nineteen states in the United States, having a population of 59,123,981, out of a total population of 105,710,620. "Great oaks from little acorns grow;" and the small conference held in the city of New York has changed the small-loan history of the United States.

I have been accustomed at these conventions to give a history of the small-loan legislation in the calendar year past, and, of course, shall do that, but in addition I shall do something more. I shall endeavor briefly but clearly to state to the men who have made the small-loan business a commercial proposition the groundwork which justifies both the small-loan business and small-loan legislation.

The legislative history of the year last past can be briefly told. There was neither progress nor retrogression.

In Massachusetts, an effort was made to amend the Massachusetts statute to make the maximum rate which could be authorized by the supervisor 3½ per cent per month. By reason of the active opposition of the credit unions and the lack of any local support for the amendment, except that provided by the licensed lenders and the Foundation, the amendment failed of enactment. I am quite confident that the credit unions opposed the bill because they were not fully advised of the purposes of the

amendment, and by the time that they were, they were so fully committed to opposition that their position could not have been changed. Efforts to enact the bill in Massachusetts still suffer from the unwise efforts which were made two years ago to tack on to the 3½ per cent amendment a rider authorizing 5 per cent a month on loans under $50. The defeat of the rider involved the defeat of the amendment and required such radical measures that the Massachusetts legislators are afraid of any amendments to the present law.

In Rhode Island it had been expected to make a campaign for the Uniform Small Loan Bill, but by reason of circumstances quite beyond control it was impossible to make any concerted effort. One of the groups supporting the Small Loan Bill attempted a campaign on its own behalf, and as has usually happened in the case of single-handed and ill-advised campaigns, it met with failure.

Similarly, in New York, an effort was made to amend the New York statute by increasing the rate to 3½ per cent per month. The bill passed the Senate but failed in the Assembly due to the late introduction of the bill and its isolated support.

In Georgia, an unsuccessful effort was made to reduce the rate authorized by the Uniform Bill, which was successfully opposed by the efforts of the Legal Reform Bureau and the American Industrial Lenders' Association. It is, of course, much easier to protect existing law than to enact new law, and wherever the Small Loan Law has been enacted it has stood the test of opposition.

In Louisiana, effort was made to enact the Uniform Small Loan Law, again single-handed, and again the single-handed effort met with failure.

To sum up the year's activities, the statute books remain today as they were a year ago, but in those states where the Uniform Law has been enacted it is operating successfully and efficiently, and has proved that its supporters builded wisely and builded well.

You, who have been among the active supporters of the Uniform Small Loan Law in the states where it has been enacted, and its most enthusiastic advocates in states in which it has been offered for enactment, know from practical experience the benefit to be derived from the Uniform Law. Some of you are the

masters of the philosophy underlying it, but nowhere is there available in brief space any statement of the theory underlying the legislation. The present seems to me to be an auspicious opportunity to make a permanent record of the principles underlying small-loan legislation.

There are two theories upon which legislation affecting the rate of interest has been based:

1. That money is a commodity, and that the price to be paid for the use of money should be regulated by supply and demand and not by legislation. In other words, that there should be no legislation limiting the rate of interest which should be charged for the loan of money. England and Massachusetts are the leading illustrations of the free contract rate.

2. The other principle is the one which has been carried down through the generations, that the rate to be charged for the loan of money should be restricted in all cases by legislative fiat. The legislation in most American states has been governed by this principle, and the rate of interest which may be charged on any loan varies from 6 to 10 per cent per annum.

Thus the Uniform Small Loan Law runs counter to the theory underlying the legislation of the free contract rate states, by limiting the rate of interest which may be charged upon small loans, and runs counter also to the legislative theory in other states by authorizing a much higher rate upon small loans than upon larger loans.

Upon what theory and upon what principle can the advocates of small-loan legislation justify this exception to the principle regulating the interest charge upon small loans in both classes of states? Upon the principle that the borrower of small sums of money requires the protection of the state against the rapacity of the unbridled lender in the free contract rate states where no maximum rate is provided by the law, and upon the theory that both lender and borrower require the protection and authorization of the state where by hard and fast rule an unreasonably low maximum contract rate is provided by the legislature.

There is implied in what I have already said an assumption that small-loan business should be authorized and not prohibited, and, of course, this is implicit in the formal draft of any uniform small-loan legislation.

A person might well conclude that it was wise:

1. To prohibit by legislation small loans where more than the normal contract rate is charged, or

2. To advocate the lending of small sums of money as a semi-philanthropic, non-commercial enterprise, or

3. To advocate commercial lending of small sums.

The Uniform Small Loan Law was a definite commitment of its advocates to the third principle, namely, that the commercial lending of small sums of money is the best solution of the small-loan problem. This conclusion is based upon experience, for the first possible solution, the attempted prohibition of small loans at more than the contract rate, has resulted, in spite of sporadic campaigns against the loan shark, in extortion by the illegal lender and helplessness on the part of the borrower. As a second attempted solution, there were organized by men of philanthropic inclination remedial loan societies which were intended to charge less than authorized by the local law and to limit the profit to the investor. There have been organized in the United States twenty-nine companies, having a capital of $13,930,037, but these semi-philanthropic ventures have not been adequate to cover the need of the small borrower.

Accordingly, believing that small loans should not be prohibited, and that there was no underlying basis for placing the small-loan business on a semi-philanthropic basis, those interested in the small-loan field concluded that the only permanent solution of the small-loan problem was to put the business upon a definite, legal, commercial basis, a basis upon which it would be commercially possible—hence the Uniform Small Loan Law.

The Uniform Law is simple in form and simple in theory. It authorizes any person to obtain a license from the state, and having obtained a license to make loans of $300 or less, and to charge therefor not in excess of 3½ per cent a month on unpaid balances; it regulates strictly the conduct of the business of the lender; it prohibits and provides suitable punishment for loans of money by unlicensed lenders in excess of the contract rate provided by the state. The Uniform Law thus enables commercial lenders to engage in business and provides suitable penalty for violations of the law by both licensed and unlicensed lenders.

Opposition to the Uniform Law comes from two groups of people: From the uninformed, who do not understand why more

than 6 to 10 per cent per annum should be charged on small loans; and from the interested who do not want their illegitimate business, in which they charge from 10 per cent a month up, to be affected. The Uniform Bill has often met the open opposition of the former class and the private and secret intrigue of the latter class.

But one argument is ever heard against the bill: "Why charge 42 per cent per annum to a poor man when we charge 6 per cent per annum to the rich?" To those who will hear, the answer is simple. The small money lender deals in cash. The commercial lender, the bank, deals in credit. The cash, once lent, cannot be lent again. The amount of credit lent is limited only by the required reserve. To illustrate: In the state of Kentucky, when the Small Loan Bill was up for hearing before the banking committee, I made the statement that in Kentucky, where the required banking reserve was 10 per cent, a bank could lend its credit ten times, so that although not more than 6 per cent could be charged on any one loan, a bank, by making loans up to ten times its capital, could get 60 per cent upon its capital, although not more than 6 per cent was charged on any one loan, to which one of the members of the committee replied: "Yes, we make 48 per cent net on our capital." In addition, each transaction is small and the debt must be collected in small monthly installments so it is comparatively expensive to put through. It is quite clear, therefore, that a law which regulates the rate of interest authorized by banks cannot apply to the rate of interest which must be charged by the lenders of small sums of money, and, accordingly, it is necessary to make a larger charge on small loans than is made on large ones. We are dealing with a distinct enterprise which requires separate treatment.

There remains but one factor to be considered: Why 3½ per cent a month instead of any other charge? The answer is not so simple but it is satisfactory. We are seeking a rate which will interest legitimate capital to satisfy the small-loan requirements of every state requiring small-loan service, and it has not yet been demonstrated that commercial capital will enter the small-loan field if a smaller rate is authorized. We do know that wherever the Uniform Law has been enacted the small-loan needs of the state have been adequately met, and the business placed upon a dignified plane. We do know that in some states where less than

3½ per cent is authorized, the small-loan need is not adequately met.

It is perfectly clear that small-loan business is not commercially conducted in a state like New York, where only 2 per cent and fees are authorized, although two large corporations are engaged in the pledge and chattel loan business. But they are semi-philanthropic enterprises; the return to the investor is strictly limited. No strictly commercial lending of small sums is being carried on to any extent.

It is likewise true that in Massachusetts the small-loan field throughout the state is not covered, and the commercial lenders do not seem to be making an adequate return.

The most efficiently authorized business operating with the largest possible capital may make more than would strike the average man as proper. A small licensed lender in a medium-sized town may struggle to make a living under the Uniform Law. The example of the lender with small capital is no more an argument for increasing the rate carried by the Uniform Bill than the success of the large and well-organized lender is an argument for reducing the rate. The fact is that with a rate of 3½ per cent a month, the small-loan needs in every state where the Uniform Bill has been enacted seem to be provided for, and the Uniform Bill, carrying a maximum rate of 3½ per cent a month on unpaid balances, has proved to be a practical solution of a practical problem.

The student of the small-loan field has met the practical man of affairs in the small-loan business and together they have solved the problem. The commercial lenders operating under the Small Loan Law have made their business a recognized honorable commercial venture.

Your organization merits the commendation and approval of men of affairs, and I am proud of the fact that, hand in hand with representatives of the American Industrial Lenders Association and with others, we are making efforts in state after state to bring to borrowers of small sums the advantages which accrue from the enactment of the Uniform Small Loan Law.

STATES HAVING UNIFORM LAW

POPULATION

Arizona	334,162
Connecticut	1,380,631
Georgia	2,895,832
Illinois	6,485,280
Indiana	2,930,390
Iowa	2,404,021
Maine	768,014
Maryland	1,449,661
Pennsylvania	8,720,017
Total	27,368,008

STATES HAVING SIMILAR LAWS

POPULATION

Colorado	939,629
Massachusetts	3,852,356
Michigan	3,668,412
New Hampshire	443,083
New Jersey	3,155,900
New York	10,385,227
Ohio	5,759,394
Oregon	783,389
Utah	449,396
Virginia	2,309,187
Total	31,755,973

Total population of the United States	105,710,620

States having Uniform Law	27,368,008
States having similar law	31,755,973
Total	59,123,981